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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,280	02/03/2004	Richard N. Clark	2578.3008.002	9654

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EXAMINER

ARK, DARREN W

ART UNIT PAPER NUMBER

3643

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/771,280

Applicant(s)

CLARK ET AL.

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/14/04, 6/21/04.</u> | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Page 6, line 1 and Page 13, line 1 appear to contradict each other in that at Page 6, line 1 it is stated "...an included angle therebetween of about 40°" and at Page 13, line 1, it is stated "...mounting...extrusions 42 and 44 at a 70° angle..." and it is therefore unclear what the angle is between the extrusions.

Appropriate correction is required.

Claim Objections

2. Claims 1-15, 23-30 are objected to because of the following informalities:

Claim 1, line 16, "on" should be replaced with "of".

Claim 5, line 6, "the" should be deleted.

Claim 9, line 1, "said" should be deleted.

Claim 23, line 1, "said" should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In regard to claim 1, lines 7 and 8, the term "the side thereof remote from said supports" lacks positive antecedent basis and should begin with the term "a" instead of "the".

In regard to claim 1, lines 12 and 13, the term "the major planes" lacks positive antecedent basis.

In regard to claim 2, the phrase "their major planes define an included angle..." renders the claim vague and indefinite since the surfaces (46, 48) define the included angle but not the major planes. Also see claim 17 for the same problem.

In regard to claim 3, the term "the obround contour" lacks positive antecedent basis. Also see claim 18 for the same problem.

In regard to claim 4, the term "said curved riser end wall" lacks positive antecedent basis. Also see claim 19 for the same problem.

In regard to claim 5, line 7, the term "said first bearing boss" lacks positive antecedent basis. Also see claim 20 for the same problem.

In regard to claim 6, line 2, the phrase "such as" renders the claim indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. *Ex parte Steigewald*, 131 USPQ 74. Also see claim 21 for the same problem.

In regard to claim 6, line 3, the terms "said first and second plates" lack positive antecedent basis. Also see claim 21 for the same problem.

In regard to claim 6, line 3, the phrase "are backed up with metal plates top and bottom" renders the claim vague and indefinite since it is unclear what the arrangement

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of the metal plates is on the first and second bearings. Also see claim 21 for the same problem.

In regard to claim 6, line 3, the term "i.e., a second bearing cover plate....to the remaining components of said base assembly." renders the claim vague and indefinite since it is unclear if the leading term "i.e." is positively setting forth the structure of the desired invention. Also see claim 21 for the same problem.

In regard to claim 7, lines 2, 3, and 4, the term "said swivel plate bearings" lacks positive antecedent basis. Also see claim 22 for the same problem.

In regard to claim 7, line 3, the term "similar mounting holes" renders the claim vague and indefinite since in line 2, the term "threaded through-holes" was previously set forth. The term "mounting" was not used to claim the "through-holes". Also see claim 22 for the same problem.

In regard to claim 7, line 5, the term "the mounting bolt pattern of the most popular models of downrigger mounting platforms" lacks positive antecedent basis. Furthermore it should be rewritten such that it generically describes the capability of the holes to mount downrigger mounting platforms of various configurations. Also see claim 22 for the same problem.

In regard to claim 7, line 7, the phrase "such as" renders the claim indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. *Ex parte Steigewald*, 131 USPQ 74. Also see claim 22 for the same problem.

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In regard to claim 8, line 2, the term "said face of said swivel plate" lacks positive antecedent basis. Also see claims 23 and 32 for the same problem.

In regard to claim 8, line 4, the term "said swivel plate sides" lacks positive antecedent basis. Also see claims 23 and 32 for the same problem.

In regard to claim 8, lines 4 and 5, the terms "its" should be changed to "an" for purposes of clarity. Also see claims 23 and 32 for the same problem.

In regard to claim 8, line 10, the term "said pairs of tooth peak surfaces" lacks positive antecedent basis. Also see claims 23 and 32 for the same problem.

In regard to claim 8, line 12, the term "said teeth root cavities" lacks positive antecedent basis. Also see claims 23 and 32 for the same problem.

In regard to claim 9, the term "said bottom bearing plate" lacks positive antecedent basis. Also see claims 24 and 33 for the same problem.

In regard to claim 9, line 5, the term "said teeth root cavities" lacks positive antecedent basis. Also see claims 24 and 33 for the same problem.

In regard to claim 9, line 9, the terms "the root or bottom of whichever negative tooth recess" lack positive antecedent basis. Also the term "negative tooth recess" renders the claim vague and indefinite since in claim 8, the term "teeth cavities" was previously set forth. Also see claims 24 and 33 for the same problem.

In regard to claim 11, line 3, the term "negative locking teeth" renders the claim vague and indefinite since in claim 8, the term "teeth cavities" was previously set forth. Also see claims 26 and 35 for the same problem.

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In regard to claim 11, line 4, the term “the annular space” lacks positive antecedent basis. The term “annular cavity” was previously set forth in claim 8. Also see claims 26 and 35 for the same problem.

In regard to claim 11, line 4, the term “said teeth apices” lacks positive antecedent basis. Also see claims 26 and 35 for the same problem.

In regard to claim 11, line 7, the term “tooth apex” renders the claim vague and indefinite since “peak surfaces” and “cavities” were previously set forth. Also see claims 26 and 35 for the same problem.

In regard to claim 13, lines 1 and 2, the term “the circumferentially spaced pair of tooth corners” and “the circumferentially opposite ends of each tooth apex” lack positive antecedent basis. Also see claims 28 and 36 for the same problem.

In regard to claim 14, line 1, the term “said negative tooth recesses” lack positive antecedent basis. Also see the term “each tooth recess” at lines 4 and 5 for the same problem. Also see claims 29 and 37 for the same problem.

In regard to claim 14, line 5, the terms “selected tooth recess” and “recess” render the claim vague and indefinite since “cavities” were previously set forth in claim 8. Also see claims 29 and 37 for the same problem.

In regard to claim 15, lines 1, 3, and 6, the terms “the sidewalls of each said tooth recess”, “said tooth recess sidewalls”, and “said sidewalls of the associated tooth recess” lack positive antecedent basis. Also “cavities” were previously set forth in claim 8. Also see claims 30 and 38 for the same problem.

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In regard to claim 15, lines 2 and 3, the term "the associated root surface of each said recess" lacks positive antecedent basis since the root surfaces were not previously set forth. Also see claims 30 and 38 for the same problem.

In regard to claim 15, line 5, the term "the bottom of said root surface of said tooth recess" lacks positive antecedent basis. Also see claims 30 and 38 for the same problem.

In regard to claim 16, lines 9 and 11, the term "said bearing plate" lacks positive antecedent basis.

In regard to claim 16, lines 9 and 10, the term "the upper side thereof" lacks positive antecedent basis.

In regard to claim 16, line 23, the term "said opposite edges of said base plate" lacks positive antecedent basis.

In regard to claim 31, lines 9-11, the term "said bearing plate" lacks positive antecedent basis.

In regard to claim 31, line 10, the term "the upper side thereof" lacks positive antecedent basis.

In regard to claim 31, lines 22 and 23, the term "said opposite side edges of said base plate" lacks positive antecedent basis.

Allowable Subject Matter

5. Claims 1-38 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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6. The following is a statement of reasons for the indication of allowable subject matter:

In regard to claim 1, the prior art of record does not disclose an adjustable swivel base assembly comprising a pair of laterally spaced apart columnar supports affixed to a first longitudinal end thereof to the base plate, a planar bearing plate stationarily supported on a second longitudinal end of the supports opposite the first longitudinal end thereof, and a planar rotatable swivel plate sandwiched slidably between the first and second bearings for rotation in a plane generally parallel to the major planes of the base plate and of the first and second bearings.

In regard to claim 16, the prior art of record does not disclose an adjustable swivel base assembly and track combination for swivel mounting on a fishing boat of downrigger and/or planar board masts used for fishing, the assembly comprising a pair of laterally spaced apart columnar supports affixed at a longitudinal bottom end thereof to the base plate, a planar bottom plate stationarily supported on a longitudinal upper end of each support opposite the bottom end thereof, and a planar rotatable swivel top plate sandwiched slidably between the top and bottom bearings for rotation in a plane generally parallel to the major planes of the base plate and the bearings.

In regard to claim 31, the prior art of record does not disclose a method for swivel mounting on a fishing boat of downrigger and/or planar board masts used for fishing, the method comprising the steps of providing a pair of laterally spaced apart columnar supports affixed at a longitudinal bottom end thereof to the base plate and extending perpendicularly upwardly therefrom, providing a planar bottom plate stationarily

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supported on a longitudinal upper end of each support opposite the bottom end thereof, and providing a planar rotatable swivel top plate sandwiched slidably between the top and bottom bearings for rotation in a plane generally parallel to the major planes of the base plate and the bearings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark
Primary Examiner
Art Unit 3643

DWA